

**R E M A R K S**

Claims 98-103 and 105-120 are pending in the present application. Claims 98 and 114 have been amended. Support for the amendment may be found in the specification at page 117, lines 1-6, among other places. Both the parent application and this application describe methods and advices for performing cell migration assays. The instant application describes additional embodiments for cell migration assays, including the use of particular cell seeding device embodiments for confining cells to a predetermined area in a well. Related U.S. applications and issued patents are as follows: 7,018,838; 11/342,413; 11/890,740; and 12/195,007.

The following rejections are at issue:

1. Claims 98-101 and 103-105, 114-117 and 119-120 are rejected under 35 USC 103 as being obvious over U.S. Appl. No. 2008/0187949 (Goldbard) in view of U.S. Pat. No. 6,171,780 (Pham); and
2. Claim 102 and 118 are rejected under 35 USC 103 as being obvious over U.S. Appl. No. 2008/0187949 (Goldbard) in view of U.S. Pat. No. 6,171,780 (Pham) and WO 99/63329 (Abbott);

These rejections are addressed in order below.

**1. Claims 98-101, 103-105, 114-117 and 119-120 are not obvious**

Claims 98-101 and 103-105 are rejected under 35 USC 103 as being obvious over U.S. Appl. No. 2008/0187949 (Goldbard) in view of U.S. Pat. No. 6,171,780 (Pham). Applicants respectfully disagree. A *prima facie* case of obviousness requires the Examiner to cite a combination of references which (a) disclose the elements of the claimed invention, (b) suggests or motivates one of skill in the art to combine those elements to yield the claimed combination, and (c) provides a reasonable expectation of success should the claimed combination be carried out. Failure to establish any one of the these three requirements precludes a finding of a *prima facie* case of obviousness,

and, without more, entitles Applicant to allowance of the claims in issue. In addressing this rejection, Applicants focus on the independent claims since non-obviousness of an independent claim necessarily leads to non-obviousness of claims dependent therefrom. The cited references do not teach element of the claims.

The claims have been amended to further clarify the invention. The Examiner states that "It is conventional in the art to transfer cells and apply them to wells with commercially available pipettes and such devices will not be further considered." Applicants respectfully submit that they have not claimed merely transferring cells to a well by use of a pipette. Instead, a cell seeding device is used which contacts the bottom of the well to exclude cells from a specified zone. The cells are dispensed into the well in the presence of the cell seeding device and allowed to attach in the presence of the device. This causes cells to be excluded from a predetermined portion of the well, i.e., that portion which the seeding device does *not* occupy. A pipette cannot be utilized for a similar procedure and it is not known in the art to leave a pipette in a well of a plate for such a purpose (or to use corresponding methods). Indeed, the pipette would inappropriately extend from the top of the well. Applicants have amended the claims to clarify these points of distinction.

In light of these amendments and as previously argued, Goldbard (in paragraph 52 cited by the Examiner, and in Figures 1, 2, and 3) describes a system where a membrane is suspended within a well and thus over the bottom surface of the well and the cells are seeded on the membrane and not the bottom surface of the well. The cells placed on the membrane in Goldfarb migrate from the membrane to the bottom surface of the well. Thus, Goldbard does not 1) teach the teach the step of inserting a cell seeding device into a well of a multiwell plate so that the cell seeding device contacts the bottom surface of the well to define a predetermined area and allowing cells to attached in the presence of the cell seeding device or 2) applying cells to the well in the presence of the device so that cells are seeded in the predetermined area and excluded from the remainder of said bottom surface of the well. Pham does not cure this defect. Pham does not disclose any method for confining cells to a predetermined area on the bottom surface of a well so that migration outside of the predetermined area can be assayed.

For the foregoing reasons, Applicants respectfully request that this rejection be withdrawn.

## **2. Claims 102 and 118 are not obvious**

Claim 102 is rejected under 35 USC 103 as being obvious over U.S. Appl. No. 2008/0187949 (Goldbard) in view of U.S. Pat. No. 6,171,780 (Pham) and WO 99/63329

(Abbott). Abbott does not cure the defects noted for the combination of Goldbard and Pham. In particular, Abbott does not disclose any method for confining cells to a predetermined area on the bottom surface of a well so that migration outside of the predetermined area can be assayed. Accordingly, Applicants respectfully request that this rejection be withdrawn.

### **CONCLUSION**

All grounds of rejection and objection of the Office Action of June 26, 2009 having been addressed, reconsideration of the application is respectfully requested. It is respectfully submitted that the invention as claimed fully meets all requirements and that the claims are worthy of allowance. Should the Examiner believe that a telephone interview would aid in the prosecution of this application, Applicant encourages the Examiner to call the undersigned collect at (608) 662-1277.

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